IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.387 OF 2005

Yashoda Balwant Mane
since deceased through her legal
heir Shri Nagnath Balwant Mane ..Appellant

Versus

Shri Shamrao Rau Phadtare ..Respondent

Mr.Dilip Bodake for appellant
Mr.P.J.Shinde for respondent

CORAM : P.V.KAKADE, J.
DATE : 19TH JULY 2005.

P.C.:

1. This is an appeal preferred by the appellant against the judgment and order passed by Addl. District Judge, Satara dated 14.6.2004 dismissing the appeal and confirming the judgment and order passed by Civil Judge, Junior Division, Vaudj dated 20.3.1993 decreeing the

plaintiff's suit for declaration and injunction with regard to the suit properties.

2. I heard the learned counsel for both the parties. Perused the record.

3. There is no substantial question of law involved in this appeal. The only question sought to be raised on behalf of the appellant was in respect of unregistered document under which the suit property was said to be transferred in favour of the plaintiff. Copy of the document was made available to this Court. Exh.33 document is pertaining sale receipt and thereunder area of 75x26 ft was sold to the plaintiff for the amount of Rs.70/= on 25.11.1952. In view of this aspect it was urged that by virtue of Section 54 of the Transfer of Property Act, when the document was unregistered, it was required to be established that there was delivery of possession of the said property to the concerned party. It was further submitted that document Exh.33 was not proved and therefore, the very basis of the suit is weak and hence the suit should have been dismissed. However, perusal of the judgments of both the courts below definitely showed that the

document was not only admissible but was also duly proved by the plaintiff as well as his witnesses in satisfactory manner and therefore, it cannot lie in the mouth of appellant-defendant that the document Exh.33 was not proved.

. Similarly question was sought to be raised with regard to the suit Property-B and it was submitted that there was no evidence to show that plaintiff was owner thereof. However, perusal of the judgments of both the courts below also go to show that the plaintiff has proved the ownership title to the said property by sufficient evidence, and therefore, both the courts below have recorded findings to the effect that the plaintiff was entitled to declaration and injunction.

4. In view of this aspect, the findings recorded by both the courts below would brook no interference. In the result the appeal stands dismissed with no order as to costs.

. Consequently Civil Application No.10 of 2005 also stands dismissed.